

## **SUPPORTING STATEMENT**

### **Employer's First Report of Injury or Occupational Disease (LS-202) Employer's Supplementary Report of Accident or Occupational Illness (LS-210)**

**OMB No. 1215-0031**

#### **A. Justification.**

1. The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employee in loading, unloading, repairing or building a vessel. In addition, several acts extend coverage to certain other employees.

Under Section 30(a) of the Longshore Act, an employer having knowledge of a disease or injury related to an employee's employment must file a report of the disease or injury to the Secretary of Labor within 10 days after the date of injury or death. Filing of form LS-202 meets this requirement. By regulation the form is filed with the district director in the compensation district in which the injury occurred. The form requests information the employer must report regarding the injury. Filing of the report is mandatory and failure to do so is subject to a civil penalty. Reporting of the employee's Social Security Number is required by Section 702.202 of the regulations.

Under Section 30(b) of the Longshore Act, the employer is required to furnish additional necessary reports regarding an employee's injury. Form LS-210 is used as a supplementary report after the employer's first report to report additional periods of lost-time from work.

2. Form LS-202 is used by employers to report injuries that have occurred under the Longshore Act and its related statutes. The form is required pursuant to Section 30 (a) of the Act. The form is filed with OWCP district offices having jurisdiction over where injuries occur. The information contained on the form is needed by the district office to assure that employers are complying with the reporting requirements of the Act and to assure that injured claimants receive all the compensation benefits to which they are entitled. If the information were not collected, the OWCP could not fulfill its statutory obligation to monitor the payment of

benefits under the Act.

Form LS-210 is a supplementary report and is used to report additional periods of lost-time from work. The information contained on the form is needed by OWCP district offices to properly monitor the progress of a compensation case and to assure that the injured claimant is paid the proper amount of compensation benefits. The form also attempts to verify that the claimant was treated by his/her choice of physicians, which is required by statute. If the information were not collected, the district office would not be aware of subsequent periods of disability and would therefore not be able to determine if the claimant has been paid proper compensation.

3. We are not aware of any improved information technology that could reduce burden. The LS-202 is currently electronically interactive on the Internet for completion and submission. Form LS-202 has options to print and fill out manually, form fill and print and submit manually or form fill and submit electronically. The electronic submission option for Form LS-202 requires an electronic signature for which approval may be applied for on the website. Since being made available, less than one percent of the Form LS-202's are submitted electronically. The website address is: <http://www.dol.gov/esa/owcp/dlhwc/ls-202.pdf>. Since the form LS-210 is submitted only occasionally, it is not considered feasible to make these documents electronically interactive. However, form LS-210 is currently available on the Internet where it can be form-filled and printed for submission. The website address is: <http://www.dol.gov/esa/owcp/dlhwc/ls-210.pdf>. Several physicians have commented that they prefer to submit their own narrative reports, which allows them to better explain a claimant's condition. For this reason, the form LS-205 has been removed from this collection.

4. There is no duplication since the employer completes the form LS-202 only once at the time of the claimant's injury and the form LS-210 only if there are additional periods of lost-time from work. In addition, all forms in the Longshore Program have been carefully reviewed to eliminate all requests for duplicate information. The LS-205 has been removed because it duplicates reports that physicians would normally generate for their own records and for insurance company records and thus the LS-205 has been discontinued. ESA has decided these reports meet the previous LS-205 requirements.

5. The information required by Forms LS-202 and LS-210 is requested from large insurance carriers and large employers who have been authorized to self-insure their liability under the Act. Burden has been minimized by requiring only that information relative to an injured claimant's injury which is considered essential in processing a claimant's claim. Periodic contact is maintained with physicians evaluating injuries under the Act by OWCP and insurance industry personnel during which time the type and adequacy of the medical information provided is discussed. Should any complaints be received, or suggestions for improvements be received, they will be properly evaluated and appropriate action taken. This information collection does not have a significant economic impact on a substantial number of small entities.

6. All of the forms associated with this clearance are only filed on occasion as the need arises. The information can therefore not be collected less frequently.

7. Since the forms are completed on occasion and only after an injury occurs, they cannot be completed on a quarterly basis. Also, in accordance with Section 30 of the law, the LS-202 must be submitted within 10 days from the date of injury and the LS-210 as soon as there is additional lost time from work.

8. Consultations are regularly held with the industry representatives during the claim adjudication process. Representatives of self-insurers and insurance carriers meet daily with our District Directors.

A Federal Register Notice inviting public comment was published on April 25, 2007. No comments were received.

9. No payments or gifts are provided to respondents.

10. Records pertaining to compensation cases are covered under the Privacy Act at DOL/ESA-15. The system name is Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Case Files.

11. There are no questions of a sensitive nature.

12. The burden estimates for each of the forms associated with the clearance are shown below. The number of responses for the LS-202 was obtained directly from the Longshore Case Management

System. All burden estimates which have been assigned for the forms associated with this clearance are considered reasonable in relation to the amount of information which is collected.

<u>Form</u>	<u>Annual Responses</u>	<u>Hours per Responses</u>	<u>Burden</u>
LS-202	25,713	.25	6,428
LS-210	<u>668</u>	.25	<u>167</u>
	Total 26,381		Total Burden 6,595 hrs

The annualized burden cost to the respondents has been estimated to be approximately \$91,868. This estimate is derived from use of the National Average Weekly Wage (NAWW) as computed by the Bureau of Labor Statistics and which is based on the national average earnings of production or nonsupervisory workers on private nonagriculture payrolls. Section 6(b) of the Act mandates the use of the NAWW in setting the maximum and minimum compensation rates under the Act and in determining the amount of annual adjustments due to permanent total disability and death beneficiaries. Since it is not possible to determine the specific occupation or wages for each person who will provide the information covered by this clearance, e.g., claims adjusters, claims managers, self-insurance administrators, secretaries, claims clerks, physicians, and other medical and office personnel, and wages can vary considerably from person to person depending on duties and length of service, use of a national average weekly wage covering all occupations appears reasonable under the circumstances. The current applicable NAWW is \$557.22. The computations are therefore as follows:  $\$557.22 \div 40 \text{ hrs} = \$13.93/\text{hr} \times 6,595 \text{ hrs} = \$91,868.35$  rounded to \$91,868.00 annualized burden cost.

13. This information collection does not require the use of systems or technology for generating, maintaining or disclosing the data above that would already be kept as a customary business practice. Therefore, a mailing cost of \$.44 per response (\$.41 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$11,607.64 for the 26,381 responses ( $26,381 \times \$.44 = \$11,607.64$ ). The total operation cost is therefore \$11,607.64.

14. The cost to the government has been estimated to be approximately \$17,004.37. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of all forms associated with this clearance. Printing costs were determined by using a cost of \$4.50 per 100 copies. Distribution costs were determined by applying a postage (\$.41) and envelope charge (\$.03) against

the number of copies issued. Analysis and handling costs were determined by applying the hourly rate of a GS-12, step 1 claims examiner (FY07 Salary Table – Rest of US) to the total annual hours required for review. The annual review hours were determined by applying an estimate of .02 hours or 1 minute for the review and analysis of each form against the forms which are received each year. It should be noted that Longshore forms are generally printed by the industry; therefore only specimen copies are usually distributed. The computations are therefore as follows:

Printing	\$90.00	(2,000 copies at \$4.50/100 copies)
Distribution	880.00	(2,000 copies x \$.44)
Analysis	<u>16,034.37</u>	(26,381 x .02 hrs = 527.62 hrs x \$30.39)
	\$17,004.37	

15. Burden has increased from 5,835 from the previous submission to 6,595 which is an increase of +760 hours to reflect an adjustment in the number of injuries reported under the Act. Form LS-205 has been discontinued from this collection due to the preference of physicians to submit their own narrative reports; thereby allowing claimants' conditions to better explained which results in an adjustment of -45 burden hours. These reports are done for the physician's records and are generally required by insurance companies; therefore to reduce duplication, physicians may simply provide these reports which satisfy the previous reporting requirements associated with the previous LS-205.

	<u>Current</u> <u>Responses</u>	<u>Burden</u> <u>Hours</u>	<u>Requested</u> <u>Responses</u>	<u>Hours</u>	<u>Change</u> <u>Responses</u>	<u>Hours</u>
LS-202	21,000	5,250	25,713	6,428	+4,713	+1,178
LS-205	60	45	0	0	-60	-45
LS-210	2,160	540	668	167	-1,492	-373
Total	23,220	5,835	26,381	6,595	+3,161	+760

The operation and maintenance cost has been increased by \$1,607.64 (rounded to \$1,608) from \$10,000.00 to \$11,607.64 due to an increase in postage and reporting under the Act.

16. The information will not be published for statistical use.

17. We are requesting a continuation of the exemption of the provisions of 5 CFR 1320.8(b) which requires that a current expiration date be affixed on all OMB cleared forms for the forms cleared under this OMB clearance.

The usual OMB clearance is for 3 years. In the Longshore program, users supply and stock most forms. Large insurance carriers and self-insured employers will generally print, or have their own supplies of the forms they use printed. However, small to medium carriers and employers will usually purchase their supplies from large printing companies that stock large quantities of the forms with which to fill small orders. It is difficult to estimate the amount of demand for the forms; therefore, supplies of some forms may stay in stocks for many years before they are all purchased and new supplies are printed. Large carriers and self-insurers also print in large quantities to reduce costs. Since the Longshore program has remained stable for many years, very few, if any, changes are ever required in the forms used. To require that all forms be reprinted every three years to merely change the OMB expiration date on the forms would impose an economic burden on the industry which cannot be justified under the circumstances.

To require reprinting every three years would also impose an additional cost burden on the government. New proofs of the forms would be required, specimens would need to be printed and then distributed to the industry for subsequent printing in large quantities. If there are no substantive changes required in the forms, it is difficult to justify the added cost merely to change an OMB expiration date on the forms.

It should be recognized that to require reprinting of large quantities of forms to update OMB expiration dates, when no other changes are required or justified, clearly violates the spirit of the Paperwork Reduction Act which mandates that burden to the public be reduced--not increased. We, therefore, request a continuation of the exemption from the provisions of 5 CFR 1320.8(b) relative to the expiration date requirement for the Longshore forms associated with this clearance.

18. There are no exceptions to the certification.